

REMARKS

The non-final Office Action of January 25, 2007 has been reviewed and the comments therein were carefully considered. Claims 12-26 are currently pending. By this response, claims 12 and 21 have been amended and new claims 39-48 have been added. The new claims are supported at least by paragraphs 53-57 of the application as originally filed, and no new matter has been added.

Drawings Objection

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following referenced character not mentioned in the description: item 40 (FIG. 4). In response, paragraph [38] has been amended to include item 40. The amendment to identify item 40 as a substance filling port is supported at least by paragraph [46] and FIG. 8 of the specification as originally filed.

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character mentioned in the description: 820. In response, FIG. 10 has been amended to include item 820, which is supported at least by paragraph [50] of the specification as originally filed. An amended replacement drawing sheet including FIG. 10 is concurrently submitted herewith. Applicant respectfully submits that the drawing objections have been rendered moot and should be withdrawn.

Claim Rejections Under 35 USC §103

Claims 12-15 and 17-26 were rejected under 35 USC §103(a) as being unpatentable over Lebel, et al., U.S. Publication No. 2002/0016568 A1 (“Lebel”), in view of Garcia, U.S. patent No. 6,088,429 (“Garcia”). Lebel et al. is directed to an ambulatory medical system with a hand-held controller, including a drug reservoir, an alarm to notify when the drug level is low, and a telemetry module to provide communication with an external device. As recognized in the office action, Lebel does not disclose an appointment scheduling module for scheduling an appointment to replenish the drug in the device and allowing the scheduling module to schedule the appointment.

Garcia does not meet these deficiencies in Lebel. The Office Action rejection alleges that Garcia discloses an appointment scheduling module and cites Col. 6, lines 17-28 of Garcia. This cited passage relates to system 300, which is described by Garcia as a system “for providing information relating to a patient in response to an incoming audio communication from a caller.” Garcia, Col. 2, lines 44-46. Figure 2 of Garcia shows a method wherein at step 218, the system identifies a plurality of selectable operations from which the caller can select an operation via the telecommunications network. Garcia, Col. 3, lines 20-39. At step 220, the caller selects one of the medical information categories listed in the menu, to provide a selection signal to system 300” and “[o]nce an operation is selected the caller can select from a list of items.” Garcia, Col. 3, lines 53-59. Figure 4 of Garcia discloses system 300 with “an advanced calling and reminder facility” to either “alert the patient to an update to the patient’s profile (e.g., receipt of a lab test results), or to remind the patient of an appointment the patient has scheduled.” Garcia, Col. 4, lines 42-49.

The foregoing is consistent with the Office Action’s cited text of Garcia, which states that after calling in to the system,

“the patient may receive a menu and provide a menu selection to the system indicating a preferred appointment time for the patient. The system can then automatically schedule an appointment for the patient on the host system based on the menu selection and store the appointment in the database.” (Col. 6, lines 20-25).

Garcia thus discloses that the patient or caller must make a call to access the system and provide input to request an appointment, and then the system may select the time and automatically send a reminder of the appointment to the patient.

Independent claims 12 and 21 have been amended to now claim an implantable drug delivery device having a scheduling module for scheduling an appointment to replenish the drug in the device “automatically, and without scheduling input contemporaneously provided by the patient.” This amendment is fully supported by at least paragraphs 53-54 of the written specification as originally filed.

In contrast to independent claims 12 and 21, in Garcia, a person must be

contemporaneously involved to schedule the appointment, which is accomplished by human interaction with a telephonic system or, as suggested in Col. 11, line 66 to Col. 12, line 2, by a user sending an e-mail communication. Thus, Garcia does not provide a “scheduling module for automatically, and without scheduling input contemporaneously provided by the patient, scheduling an appointment to replenish the drug in the device” as recited in claim 12. Independent claim 21 is similar to claim 12, reciting that “the scheduling module is adapted to contact via the telemetry module at least one entity for the scheduling activity automatically, and without scheduling input contemporaneously provided by the patient.” Again, Garcia does not disclose a module that schedules an appointment without a human having to contemporaneously interact with the medication data system. Consequently, the proposed combination of the disclosures of Lebel et al. and Garcia, even if proper, do not teach or suggest all of the features of independent claims 12 and 21, as amended. Claims 13-15 and 17-20, and new claims 39-43, depend from claim 12, and claims 22-26, and new claims 44-48, depend from claim 21, and are patentable over Lebel in view of Garcia for at least the same reasons as claims 12 and 21, and for the additional limitations recited therein.

Claim 16 was rejected under 35 USC §103(a) as being unpatentable over Lebel in view of Garcia, and further in view of Akers, et al., U.S. Patent No. 6,112,182 (“Akers”). Claim 16 depends from claim 12. Akers et al. is directed to a data processing system for use in managing healthcare and does not remedy the deficiencies of Lebel et al. and Garcia with respect to claim 12. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejections are respectfully requested.

CONCLUSION

Applicants therefore respectfully request reconsideration of the pending claims and a finding of their allowability. A notice to this effect is respectfully requested. The Examiner is welcome to contact via telephone the undersigned should it be helpful to facilitate prosecution of the application.

Respectfully submitted,

Dated: April 17, 2007

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